UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

_____
                                                    :
JEFFREY HEITZENRATER, Individually   :
and on Behalf of Himself and All Other   :
Persons Similarly Situated,   :   Case No. 12-cv-900 (WMS) (LGF)
                                                    :
                    Plaintiffs,   :
                                                    :
                    v.   :
                                                    :
OFFICEMAX, INCORPORATED and   :
OFFICEMAX NORTH AMERICA, INC.,   :
                                                    :
                    Defendants.   :
_____:

NOTICE OF PLAINTIFFS' MOTION FOR CONDITIONAL CERTIFICATION

PLEASE TAKE NOTICE that, on June 28, 2013, Plaintiff Jeffrey Heitzenrater and the

Fifteen Opt-ins (together "Plaintiffs") move this Court for an Order, pursuant to 29 U.S.C. §

216(b) conditionally certifying a collective action consisting of all current and former Assistant

Store Managers employed by Defendants in the United States of America, except in California,

at any time from September 21, 2009 to the present. Plaintiffs are similarly situated to the

putative collective action members because they perform similar job duties and responsibilities,

they are subject to Defendants' uniform comprehensive corporate policies and procedures, they

are all mis-classified as exempt from the Fair Labor Standards Act's overtime provisions, and

they are not paid overtime pursuant to a common corporate policy. Plaintiffs' Motion is

supported by an accompanying Memorandum of Law and the Declaration of Seth R. Lesser with

exhibits attached thereto. Plaintiffs intend on filing and serving reply papers.

Dated: Rye Brook, New York   Respectfully submitted,
     June 28, 2013

By:_____

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*Admitted *Pro Hac Vice*
** *Pro Hac Vice* admission to be filed

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